

Article 31.

Insuring State Property, Officials and Employees.

§ 58-31-1. State Property Fire Insurance Fund created.

Upon the expiration of all existing policies of fire insurance upon state-owned buildings, fixtures, furniture, and equipment, including all such property the title to which may be in any State department, institution, or agency, the State of North Carolina shall not reinsure any of such properties.

There is hereby created a "State Property Fire Insurance Fund," which shall be as a special fund in the State treasury, for the purpose of providing a reserve against loss from fire at State departments and institutions. The State Treasurer shall be the custodian of the "State Property Fire Insurance Fund" and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and 147-69.3. The unexpended appropriations of State departments and institutions for fire insurance premiums for the fiscal year 1944-1945 and the appropriations for fire insurance premiums made for the biennium 1945-1947 or that may thereafter be made for this purpose shall be transferred to the "State Property Fire Insurance Fund." (1945, c. 1027, s. 1; 1963, c. 462; 1975, c. 519, s. 1; 1979, c. 467, s. 4.)

§ 58-31-5. Appropriations; fund to pay administrative expenses.

Upon the expiration of the existing fire insurance policies on said properties and in making appropriations for any biennium after the next biennium, the Commissioner shall file with the Department of Administration his estimate of the appropriations which will be necessary in order to set up and maintain an adequate reserve to provide a fund sufficient to protect the State, its departments, institutions, and agencies from loss or damage to any of said properties up to fifty per centum (50%) of the value thereof. Appropriations made for the creating of such fire insurance reserves against property of the Department of Agriculture and Consumer Services, or the Department of Transportation or any special operating fund shall be charged against the funds of such departments.

The State Property Fire Insurance Fund is authorized and empowered to pay all the administrative expenses occasioned by the administration of Article 31 of Chapter 58 of the General Statutes. (1945, c. 1027, s. 2; 1957, c. 65, s. 11; c. 269, s. 1; 1959, c. 182, s. 1; 1973, c. 507, s. 5; 1977, c. 464, s. 34; 1991, c. 720, s. 4; 1997-261, s. 109.)

§ 58-31-10. Payment of losses on basis of actual cost of restoration or replacement; rules; insurance and reinsurance; sprinkler leakage insurance.

(a) In the case of total or partial loss of any property of any State agency or institution, the Commissioner shall determine the amount of loss and certify that amount to the agency or institution concerned and to the Director of the Budget and Council of State. The Director of the Budget and Council of State may authorize transfers from the Fund to the agency or institution that suffered the loss in amounts that are necessary to pay for the actual cost of restoration or replacement of the property. In the event there is not a sufficient amount in the Fund to pay for the actual cost of restoration or replacement, the Director of the Budget and the Council of State may supplement the Fund by transferring amounts from the Contingency and Emergency Fund.

(b) The Commissioner, with the approval of the Council of State, is authorized to adopt rules necessary to carry out the purpose of this Article, which rules shall be binding on all State agencies and institutions. The Commissioner, with the approval of the Director of the Budget and the Council of State, is authorized to purchase from qualified insurers insurance or reinsurance

necessary to protect the Fund against loss on any one building and its contents in excess of fifty thousand dollars (\$50,000), and the premiums for this coverage shall be paid from the Fund.

(c) Upon the request of any State agency or institution, sprinkler leakage insurance shall be provided on designated property of the agency or institution that is insured by the Fund. Premiums for this coverage shall be paid by the requesting agency or institution in accordance with rates fixed by the Commissioner. Losses covered by this insurance may be paid out of the Fund in the same manner as other losses. The Commissioner, with the approval of the Director of the Budget and the Council of State, is authorized to purchase from qualified insurers insurance or reinsurance necessary to protect the Fund against loss with respect to sprinkler leakage insurance coverage. (1945, c. 1027, s. 3; 1951, c. 802; 1959, c. 182, s. 2; 1983, c. 913, s. 7; 1985, c. 786.)

§ 58-31-12. Policy forms.

The Commissioner, with the approval of the Council of State, may adopt insurance forms for coverages provided by the State Property Fire Insurance Fund under this Article. (1993, c. 409, s. 13.)

§ 58-31-13. Hazardous conditions in State-owned buildings.

If the Commissioner determines that an undue hazard to life, safety, or property exists because of a condition or the use of a building owned by the State, the Commissioner shall advise the proper agency how to limit or prohibit use of the building until the hazard is abated. (1993, c. 409, s. 13.)

§ 58-31-15. Extended coverage insurance.

Upon request of any State department, agency or institution, extended coverage insurance, and other property insurance, may be provided on designated state-owned property of such department, agency or institution which is insured by the State Property Fire Insurance Fund. Premiums for such insurance coverage shall be paid by each requesting department, agency or institution in accordance with rates fixed by the Commissioner. Losses covered by such insurance may be paid for out of the State Property Fire Insurance Fund in the same manner as fire losses. The Commissioner, with the approval of the Governor and Council of State, is authorized and empowered to purchase from insurers admitted to do business in North Carolina such insurance or reinsurance as may be necessary to protect the State Property Fire Insurance Fund against loss with respect to such insurance coverage. The words "extended coverage insurance," as used in this section, mean insurance against loss or damage caused by windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles or smoke. (1957, c. 67; 1975, c. 519, s. 2; 1991, c. 720, s. 4.)

§ 58-31-20. Use and occupancy and business interruption insurance.

Upon request of any State department, agency or institution, use and occupancy and business interruption insurance shall be provided on state-owned property of such department, agency or institution which is insured by the State Property Fire Insurance Fund. Premiums for such insurance coverage shall be paid by each requesting department, agency or institution in accordance with rates fixed by the Commissioner. Losses covered by such insurance may be paid for out of the State Property Fire Insurance Fund in the same manner as fire losses. The Commissioner, with the approval of the Governor and Council of State, is authorized and empowered to purchase from insurers admitted to do business in North Carolina such insurance or

reinsurance as may be necessary to protect the State Property Fire Insurance Fund against loss with respect to such insurance coverage. (1957, c. 67; 1991, c. 720, s. 4.)

§ 58-31-25. Professional liability insurance for officials and employees of the State.

The Commissioner may acquire professional liability insurance covering the officers and employees of any State department, institution or agency upon the request of such State department, institution or agency. Premiums for such insurance coverage shall be paid by the requesting department, institution or agency at rates fixed by the Commissioner from funds made available to it for the purpose. The Commissioner, in placing a contract for such insurance is authorized to place such insurance through the Public Officers and Employees' Liability Insurance Commission, and shall exercise all efforts to place such insurance through the said commission prior to attempting to procure such insurance through any other source.

The Commissioner, pursuant to this section, may acquire professional liability insurance covering the officers and employees of a department, institution or agency of State government only if the coverage to be provided by such policy is coverage of claims in excess of the protection provided by Articles 31 and 31A of Chapter 143 of the General Statutes.

The purchase, by any State department, institution or agency of professional liability insurance covering the law-enforcement officers, officers or employees of such department, institution or agency shall not be construed as a waiver of any defense of sovereign immunity by such department, institution or agency. The purchase of such insurance shall not be deemed a waiver by any employee of the defense of sovereign immunity to the extent that such defense may be available to him.

The payment, by any State department, institution or agency of funds as premiums for professional liability insurance through the plan provided herein, covering the law-enforcement officers or officials or employees of such department, institution or agency is hereby declared to be for a public purpose. (1979, c. 206, s. 1; 1987, c. 864, s. 53; 1991, c. 720, s. 4.)

§ 58-31-26. Medical liability insurance for certain physicians and dentists.

(a) The Secretary of the Department of Health and Human Services and the Secretary of the Department of Public Safety may provide medical liability insurance not to exceed one million dollars (\$1,000,000) per incident on behalf of employees of these Departments who are licensed to practice medicine or dentistry; on behalf of all licensed physicians who are faculty members of The University of North Carolina who perform work on a contractual basis for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs; and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

(b) The coverage provided pursuant to this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States, or that arises out of any sexual, fraudulent, criminal, or malicious act or out of any act amounting to willful or wanton negligence.

(c) The coverage provided pursuant to this section shall not require any additional appropriations and, except as provided in subsection (a) of this section, shall not apply to any individual providing contractual service to the Department of Health and Human Services or the Department of Public Safety. (2013-360, s. 12A.7.)

§ 58-31-30: Expired at the end of the 1993-94 fiscal year by its own terms.

§ 58-31-35. Information furnished Commissioner by officers in charge.

It is the duty of the different officers or boards having in their custody any property belonging to the State to inform the Commissioner, giving him in detail a full description of same, and to keep him informed of any changes in such property or its location or surroundings. (1901, c. 710, ss. 1, 2; 1903, c. 771, s. 2; Rev., s. 4828; C.S., s. 6452.)

§ 58-31-40. Commissioner to inspect State property.

(a) The Commissioner shall, as often as is required in the fire code adopted by the North Carolina Building Code Council or more often if the Commissioner considers it necessary, visit, inspect, and thoroughly examine every State property to analyze and determine its protection from fire, including the property's occupants or contents. The Commissioner shall notify in writing the agency or official in charge of the property of any defect noted by the Commissioner or any improvement considered by the Commissioner to be necessary, and a copy of that notice shall be forwarded by the Commissioner to the Department of Administration.

(b) No agency or person authorized or directed by law to select a plan or erect a building comprising 20,000 square feet or more for the use of any county, city, or school district shall receive and approve of the plan until it is submitted to and approved by the Commissioner as to the safety of the proposed building from fire, including the property's occupants or contents.

(c) Repealed by Session Laws 2009-474, s. 1, effective October 1, 2009. (1901, c. 710, ss. 1, 2; 1903, c. 771, s. 3; Rev., s. 4829; 1909, c. 880; 1919, c. 186, s. 3; C.S., s. 6453; 2000-122, s. 10; 2001-487, s. 19; 2001-496, s. 11.1; 2007-303, s. 1; 2009-474, s. 1; 2012-161, s. 2.)

§ 58-31-45. Report required of Commissioner.

The Commissioner must submit to the Governor a full report of his official action under this Article, with such recommendations as commend themselves to the Commissioner. (1901, c. 710, ss. 1, 2; 1903, c. 771, s. 4; Rev., s. 4830; C.S., s. 6454; 1945, c. 386; 1991, c. 720, s. 4; 2013-199, s. 7.)

§ 58-31-50. Liability insurance required for state-owned vehicles.

Every department, agency or institution of the State shall acquire motor vehicle liability insurance on all state-owned motor vehicles under its control. (1959, c. 1248; 1983, c. 717, s. 10.)

§ 58-31-52. State motor vehicle safety program.

(a) Findings, Policy, and Purpose. – Motor vehicle accidents exact a terrible toll of human tragedy and suffering as well as national resources within the United States. The same is true, on a smaller scale, within North Carolina State government. Every year State employees or members of the general public are killed or injured, and a significant portion of the State's financial resources is expended as a direct result of accidents involving State-owned vehicles. Accordingly, it is North Carolina policy that the State-owned motor vehicle fleet and vehicles used on behalf of the State be operated and maintained in such a manner as to minimize deaths, injuries, and costs. The purpose of this section is to direct the Commissioner of Insurance to develop a program to provide policy, requirements, procedures, technical information, and standards for administering a State vehicle safety program which will apply to all State personnel involved in the administration and operation of vehicles on behalf of the State.

(b) The Commissioner shall develop and adopt a State motor vehicle safety program to assure that State-owned motor vehicles are operated and maintained in a safe manner.

(c) In developing the program, the Commissioner shall include the following:

- (1) Basic criteria concerning qualifications, screening, and education of drivers.
- (2) Required and prohibited driving practices.
- (3) Safety maintenance requirements.
- (4) Accident reporting and review procedures.

(d) The requirements and procedures established under the program apply to all agencies and persons operating vehicles on behalf of the State, unless specifically exempted by the Commissioner. Agencies may adopt more stringent requirements and procedures than those adopted by the Commissioner under this section. The administration of the program in each agency is the responsibility of each agency head or that person's designee.

(e) The provisions of Chapter 150B of the General Statutes do not apply to the program developed and adopted under this section. (1995, c. 517, s. 15.)

§ 58-31-55. Insurance and official fidelity bonds for State agencies to be placed by Department; exception; costs of placement.

Except as provided in G.S. 58-32-15, all insurance and all official fidelity and surety bonds authorized for State departments, institutions, and agencies shall be effected and placed by the Department, and the cost of such placement shall be paid by the State department, institution, or agency involved upon bills rendered to and approved by the Commissioner. (1975, c. 875, s. 11; 1981, c. 1109, s. 4; 1993, c. 504, s. 21.)

§ 58-31-60. Competitive selection of payroll deduction insurance products paid for by State employees.

(a) Employee Insurance Committee. – The head of each State government employee payroll unit offering payroll deduction insurance products to employees shall appoint an Employee Insurance Committee for the following purposes:

- (1) To review insurance products currently offered through payroll deduction to the State employees in the Employee Insurance Committee's payroll unit to determine if those products meet the needs and desires of employees in the Employee Insurance Committee's payroll unit.
- (2) To select the types of insurance products that reflect the needs and desires of employees in the Employee Insurance Committee's payroll unit.

- (3) To competitively select the best insurance products of the types determined by the Employee Insurance Committee to reflect the needs and desires of the employees of that payroll unit.

As used in this section, "insurance product" includes a prepaid legal services plan registered under G.S. 84-23.1.

(b) Appointment of Employee Insurance Committee Members. – The members of the Employee Insurance Committee shall be appointed by the head of the payroll unit. The Committee shall consist of not less than five or more than nine individuals a majority of whom have been employed in the payroll unit for at least one year. The committee members shall, except where necessary initially to establish the rotation herein prescribed, serve three-year terms with approximately one-third of the terms expiring annually. Committee membership make-up shall fairly represent the work force in the payroll unit and be selected without regard to any political or other affiliations. It shall be the duty of the payroll unit head to assure that the Employee Insurance Committee is completely autonomous in its selection of insurance products and insurance companies and that no member of the Employee Insurance Committee has any conflict of interest in serving on the Committee. A committee on employee benefits elected or appointed by the faculty representative body of a constituent institution of The University of North Carolina shall be deemed constituted and functioning as an employee insurance committee in accordance with this section. Any decision rendered by the Employee Insurance Committee where the autonomy of the Committee or a conflict of interest is questioned shall be subject to appeal pursuant to the Administrative Procedure Act, or in the case of departments, boards and commissions which are specifically exempt from the Administrative Procedure Act, pursuant to the appeals procedure prescribed for such department, board or commission.

(c) Payroll Deduction Slots. – Each payroll unit shall be entitled to not less than four payroll deduction slots to be used for payment of insurance premiums for products selected by the Employee Insurance Committee and offered to the employees of the payroll unit. The Employee Insurance Committee shall select only one company per payroll deduction slot. The products selected by the Employee Insurance Committee may be offered on a pretax basis if the products qualify as a cafeteria plan under section 125 of the Code. For purposes of this subsection, the term "Code" has the same meaning as defined in G.S. 105-228.90. The Company selected by the Employee Insurance Committee shall be permitted to sell through payroll deduction only the products specifically approved by the Employee Insurance Committee. The assignment by the Employee Insurance Committee of a payroll deduction slot shall be for a period of not less than two years unless the insurance company shall be in violation of the terms of the written agreement specified in this subsection. The insurance company awarded a payroll deduction slot shall, pursuant to a written agreement setting out the rights and duties of the insurance company, be afforded an adequate opportunity to solicit employees of the payroll unit by making such employees aware that a representative of the company will be available at a specified time and at a location convenient to the employees.

Notwithstanding any other provision of the General Statutes, once an employee has selected an insurance product for payroll deduction, that product may not be removed from payroll deduction for that employee without his or her specific written consent.

When an employee retires from State employment and payroll deduction under this section is no longer available, the insurance company may not terminate life insurance products purchased under the payroll deduction plan without the retiree's specific written consent solely because the premium is no longer deducted from payroll.

(c1) Procedure for Selection of Insurance Product Proposals. – All insurance product proposals shall be sealed. The Committee shall open all proposals in public and record them in the minutes of the Committee, at which time the proposals become public records open to public inspection.

After the public opening, the Committee shall review the proposals, examining the cost and quality of the products, the reputation and capabilities of the insurance companies submitting the proposals, and other appropriate criteria. The Committee shall determine which proposal, if any, would meet the needs and desires of the employees of that Committee's payroll unit and shall award a payroll deduction slot to the company submitting the proposal that meets those needs and desires. The Committee may reject any or all proposals.

A company may seek to modify or withdraw a proposal only after the public opening and only on the basis that the proposal contains an unintentional clerical error as opposed to an error in judgment. A company seeking to modify or withdraw a proposal shall submit to the Committee a written request, with facts and evidence in support of its position, prior to the award of the payroll deduction slot, but not later than two days after the public opening of the proposals. The Committee shall promptly review the request, examine the nature of the error, and determine whether to permit or deny the request.

(d) Criminal Penalty. – It shall be a Class 3 misdemeanor for any State employee, who has supervisory authority over any member of the Employee Insurance Committee, to attempt to influence the autonomy of any Employee Insurance Committee either in the appointment of members to such Committee or in the operation of such Committee; or for anyone to open a sealed insurance product proposal or disclose or exhibit the contents of a sealed insurance product proposal, prior to the public opening of the proposal. The Commissioner of Insurance shall have the authority to investigate complaints alleging acts subject to the criminal penalty and shall report his findings to the Attorney General of North Carolina. (1985, c. 213, s. 1; 1985 (Reg. Sess., 1986), c. 1013, s. 15; 1987, c. 752, s. 12; c. 864, s. 92; 1989, c. 299; 1991, c. 644, s. 3.1; 1993, c. 539, s. 456; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 193, s. 33; 1998-187, s. 1; 2018-64, s. 1.)

§ 58-31-65. Owner-controlled or wrap-up insurance authorized.

(a) To the extent it is determined necessary and in the best interest of this State, the Department may obtain design and construction insurance or provide for self-insurance against property damage caused by this State, its departments, agencies, boards, and commissions and all officers and employees of this State in connection with the construction of public works projects. Workers' compensation and general liability insurance may be purchased to cover both general

contractors and subcontractors doing work on a specific contracted work site. In connection with the construction of public works projects, the Department may also use an owner-controlled or wrap-up insurance program if all of the following conditions are met:

- (1) The total cost of the project or group of projects is over fifty million dollars (\$50,000,000).
 - (2) The program maintains completed operations coverage for a term during which coverage is reasonably commercially available as determined by the Commissioner, but in no event for fewer than three years.
 - (3) Bid specifications clearly specify for all bidders the insurance coverage provided under the program and the minimum safety requirements that shall be met.
 - (4) The program does not prohibit a contractor or subcontractor from purchasing any additional insurance coverage that a contractor believes is necessary for protection from any liability arising out of the contract. The cost of the additional insurance shall not be passed through to this State on a contract bid.
 - (5) The program does not include surety insurance.
 - (6) The State may purchase an owner-controlled or wrap-up policy that has a deductible or self-insured retention as long as the deductible or self-insured retention does not exceed one million dollars (\$1,000,000).
- (b) For the purposes of subsection (a) of this section:
- (1) "Owner-controlled or wrap-up insurance" means a series of insurance policies issued to cover this State and all of the construction managers, contractors, subcontractors, architects, and engineers on a specified contracted work site or work sites for purposes of general liability, property damage, and workers' compensation. A State agency or the State may be a secondary insured under owner-controlled or wrap-up insurance.
 - (2) "Specific contracted work site" means construction being performed at one site or a series of contiguous sites separated only by a street, roadway, waterway, or railroad right-of-way, or along a continuous system for the provision of water and power. (2001-167, s. 1.)

§ 58-31-66. Public construction contract surety bonds.

(a) Neither the State nor any county, city, or other political subdivision of the State, or any officer, employee, or other person acting on behalf of any such entity shall, with respect to any public building or construction contract, require any contractor, bidder, or proposer to procure a bid bond, payment bond, or performance bond from a particular surety, agent, producer, or broker.

(b) (1) Repealed by Session Laws 2004-203, s. 74(b), effective October 1, 2004.

(2) Repealed by Session Laws 2006-264, s. 7, effective August 27, 2006.

(c) Repealed by Session Laws 2004-203, s. 74(b), effective October 1, 2004. (2003-212, s. 27; 2004-203, s. 74(b); 2006-264, s. 7.)